JK 1595
.B8

H. C. Temple
Charges.

C266
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Temple, Henry Churchill, 1832-1897

Charges and Specifications

AGAINST

RICHARD BUSTEED,

U. S. JUDGE

OF THE DISTRICT COURTS OF THE UNITED STATES IN ALABAMA.

JK1595
.I8

To the Honorable the Members of the Senate and House of Representatives in Congress Assembled:

An investigation into the conduct and character of Richard Busteed, United States District Judge of Alabama, will establish clearly that he is an ignorant, arbitrary and tyrannical Judge; and it is the universal opinion in the community in which his office is exercised that he is also a corrupt Judge.

It can certainly be established that he has violated his duty as a Judge and his official oath, by respecting persons in his judgments.

First, as to *ignorance*—which is so gross as to render his administration of the law a mere farce.

The bill of exceptions signed by him in the case of Harper vs. Graves et al., will of itself go far to establish this charge.

This bill of exceptions shows that in an action of ejectment brought by Harper against Graves and others, the Plaintiff introduced evidence of a sale by the Marshal, under execution against Matt. Gayle, of the premises sued for, and the purchase thereof by Plaintiff, and conveyance by the Marshal.

The Plaintiff then closed, without showing any judgment against Gayle, any title in Gayle, or any possession of the land by him; and Defendant moved the Court to exclude the evidence as irrelevant and insufficient. This the Court refused to do.

Afterwards Defendants showed that the land in question embraced the mansion house of the deceased, and that he resided there at the time of his death, and that they were in possession of the premises holding under his widow;

and asked the Court to charge the jury that no action of ejectment could be maintained, unless dower had been assigned the widow in the premises. The law of Alabama recognizes this right in the widow, and there has never been any question that it is her right to hold possession of the mansion house and land attached until her dower is assigned. Yet the Judge ruled this to be no defence.

On every occasion in which he has presided on trials of information for the condemnation of property as confiscated under the acts of Congress for the suppression of the rebellion, he has refused to allow the claimants of the property a trial by jury; and has proceeded to sentence of condemnation, without reducing the evidence to writing, except in such notes as he chose to take of the evidence, and which he keeps himself among his private papers, and yet constantly refers to as part of the *record.*

It is also a fact which will be established by the clerk of the Court, and many other witnesses, that this Judge adjourns his Court without having entries made of the judgments rendered on the common law side of the Court, and permits the clerk to enter minutes of judgments months after the adjournment of the Court.

In support of the charge of ignorance and incompetency, the records of the Court may be examined. They will demonstrate the fact; and the whole bar will concur in declaring that they have never witnessed such lamentable incapacity even in the most inferior tribunals of the State.

As to his *arbitrary and tyrannical conduct,* no description of it can do justice to the subject.

He habitually outrages and insults counsel, parties and witnesses before him, and seems so entirely unconscious of what is due to the dignity of his office and common decency, that he is surprised when they retire indignantly from his Court, disclaims all intention of offence, and begs them to return to practice before him.

Every member of the bar of Montgomery and Mobile will be a witness to these facts, and, if there be any exception it will he found in the late District Attorney at Montgomery, who was removed from office for ignorance, incapacity, and malversation in office, and who is strongly suspected of having administered *his office* as part of a partnership, in which the *Judge* who decided the causes was the *other partner.*

This latter charge can be fully sustained by a chain of circumstantial evidence, conclusive in itself, but too voluminous to be recited here, and will form a chief feature in the charge of corruption against the Judge.

As to the charge of *corruption*—

It cannot be expected that a decent man could know personally anything of the main fact, the actual receipt of money by a Judge for judicial action. But counsel know of many things which they do not know personally. They can name persons who will be able to make proof of corruption, and they can be, and frequently are, satisfied from what they do know, that bribes have been given and received; and if any body of men authorized to make investigation into such matters should be sent to this point or Mobile, the writer of this paper and other gentlemen whom he knows, will furnish the names of witnesses who will prove facts which would convict the unjust Judge beyond all reasonable doubt.

The officers of the Court, so far as he has the selection of them, are fit agents for the purposes for which a corrupt man would require them.

He solicits men to bring causes before him; consults with them and their counsel while they are before him, and it is fair to infer, as there can be no honest motive for such conduct, that it is upon some hope or expectation of reward.

Such is his utter neglect and contempt for judicial integrity and his oath of office, that the result of a trial before him may be predicted with tolerable certainty, without

reference to the facts of the case, if either party is upon especially agreeable terms with him. And some cases have occurred where strangers have been benefitted by bearing the name of some friend of the Judge, and being mistaken for him.

HENRY C. SEMPLE.

MONTGOMERY, ALABAMA, 18*th April*, 1868.

The above memorial was drawn by me and delivered to J. C. Keffer, to be handed to some member of Congress, to be introduced into the House of Representatives. He asked me if he might refer to witnesses to prove the facts stated, and I replied yes, but put nothing over my name. At the time of being offered by Mr. Kelly, of Pennsylvania, the names below were added to the memorial with this state ment.

"The following are the names of a very few of the witnesses, men of every shade of political views and diversified antecedents, who may be relied on to establish the bad character of this unjust judge:

Major General WAGNER SWAYNE.
Hon. WM. H. SMITH, *Governor Elect.*
JOSIAH MORRIS, *Montgomery.*
E. H. METCALF, *Montgomery.*
E. Y. FAIR, *Montgomery.*
GEORGE W. STONE, *Montgomery.*
Genl. WILLARD WARNER, *Montgomery.*
BENJ. F. PORTER, *Greenville.*
Col. R. M. MOORE, *Selma.*
Genl. WM. McK. DUNN, *Atlanta.*
THOMAS O. GLASCOCK, *Montgomery.*
JOHN A. CAMPBELL, *Mobile.*
GUSTAVUS HORTON, *Mobile.*
L. F. MELLEN, *Cleveland, Ohio.*
ALEX. McKINSTRY, *Mobile.*
D. S. ARNOLD, *Montgomery.*
Hon. ROBT. M. PATTON, *Governor.*
THOMAS. H. WATTS, *Montgomery.*
WM. T. HATCHETT, *Supt. Registration, Montgomery.*

Col. EDWIN BEECHER, *U. S. A., Montgomery*
JOHN A. ELMORE, *Montgomery.*
ABRAHAM MARTIN, *Montgomery.*
BENJ. FITZPATRICK, *near Montgomery.*
JOHN T. MORGAN, *Selma.*
THOS. J. JUDGE, *Montgomery.*
GEORGE ELY, *Montgomery*
ALBERT GRIFFIN, *Mobile.*
CHAS. H. MOULTON, *Mobile.*
JOHN M. WITHERS, *Mobile.*
ROBERT SMITH, *of firm of Smith & Herndon, Mobile.*
GEO. W. STONE, *Montgomery.*
Genl. D. E. COON, *Selma.*
MAYER LEHMAN, *Montgomery.*"

The memorial was referred to the Committee on the Judiciary, and, after an oral statement made to the Committee, I prepared the following:

CHARGES AND SPECIFICATIONS

AGAINST

RICHARD BUSTEED,

U. S. JUDGE OF THE DISTRICT COURTS OF THE UNITED STATES IN ALABAMA.

Charge I.

That Richard Busteed, Judge of the District Courts of the United States for the State of Alabama, did wilfully and corruptly, for his own gain and pleasure, conduct the affairs of his office of Judge, without regard to justice, or his official oath and duty, in the State of Alabama, from the fall of 1865 to the first of June, 1868.

Specification 1st.

That Richard Busteed, while exercising the powers of his office in Alabama, in the spring of 1866, did undertake to act, and did act, as the counsel, agent, and legal adviser of one Jacob Stanwood, then of the City of Boston, Mass., now of Lowndes County, Alabama, in and about the negotiation by the said Stanwood for the purchase from one James A. Turner of a tract of land in the County of Lowndes, State of Alabama; that the said land was purchased about that time by the said Stanwood from the said Turner, upon the legal opinion of the said Busteed as to the sufficiency of the title, and his private opinion, after an examination of the plantation, as to the reasonableness of the price demanded therefor; yet, the said Stanwood having become dissatisfied with the said purchase, and anxious to procure

a recission of the sale, the said Richard Busteed did unlawfully consult with said Stanwood in relation thereto, and did advise him to employ certain counsel named by him, and to proceed in the District Court of the United States for the Middle District of Alabama. That thereupon the said Stanwood filed a bill of complaint in said Court against the said Turner, praying an injunction to restrain the collection by Turner of a portion of the purchase money, and that the contract of purchase so made by him under the advice and counsel of said Judge should be rescinded; and the said Judge corruptly and unlawfully assumed jurisdiction of said cause, and granted an injunction therein in the spring of 1868.

Witnesses as to Specification 1st: James A. Turner, Baltimore, Md.; J. M. Dillehay, Danville, Ky.; Jacob Stanwood, Lowndes County, Ala.; William Turner, Montgomery, Ala.; John A. Elmore, Montgomery, Ala.

Specification 2d.

That he did make and act upon a corrupt agreement with one James Q. Smith, unlawfully and under color of fees and allowances to be awarded to said Smith by his orders, to obtain large sums of money from the people of Alabama and from the United States, with a view of appropriating it to the use of himself, the said Busteed; and that he did thus obtain large sums of money, the property of the United States or of some of the people thereof.

Witnesses to Specification 2d: Josiah Morris, Montgomery, Ala.; E. E. McCloskey, Knoxville, Tenn.; Barna McKinney, Montgomery, Ala; The Bar of Montgomery and Selma generally.

Specification 3d.

That the said Richard Busteed, while Judge of the District Courts of the United States for Alabama, did, as such Judge, render a judgment or decree in a cause pending be-

fore him in the District Court of the United States for the Middle District of Alabama in favor of the U. S. and an informer, (not named in the proceedings,) against one Josiah Morris and one J. F. Johnson, for the sum of $30,000, or thereabouts; and, upon being urged by said Morris to act upon a writ of error or appeal bond which he offered for his approval, did say to the said Morris, in a room occupied by him, the said Busteed, in the Custom House, at Mobile—one Jacob Wilson, a body servant of said Judge, and Acting Deputy Marshal, being at the time present—"you ought to settle this case," or words to that effect; and, upon the said Morris saying he was tired of it, and was willing to pay the value of the cotton, the subject of the controversy. $5,000 or $5,500, the said Judge then remarked, "You ought to settle this with Smith," (the District Attorney;) and, on Morris replying that he could have no intercourse with Smith, the Judge said that he would make Smith settle it if he could see him; and, being urged by Morris and Jacob Wilson, who was present, to go to Montgomery, he finally agreed to go for the purpose indicated, and did go. That Morris retired from the Judge's room followed immediately by said Wilson, who told him that the Judge wanted the money to take up with him to settle that case, and thereupon the said Morris delivered him checks to bearer to the sum of $5,000 or $5,500, which went into the hands of the said Busteed, and was corruptly received and retained by him for his own use.

Witnesses to Specification 3d: J. Morris, Montgomery, Alabama; James R. Powell, Montgomery, Alabama; J. F. Johnson, Montgomery, Alabama; Samuel F. Rice, Montgomery, Alabama; M. J. Saffold, Washington, D. C.

Specification 4th.

Same as 3d, down to the recital of the fact of the receipt of the money by Jacob Wilson, and then add: And the

said Richard Busteed well knowing that the said money had been received and obtained by the said Wilson under the circumstances stated, and that it was known to the community, did retain the said Wilson in confidential employment about his person by way of advertising for bribes.

Same witnesses as 3d Specification with Wm. P. Chilton, Montgomery, Alabama.

Specification 5th.

That the sum of money mentioned in the 3d Specification as having been decreed against the said Morris and Johnson, having been paid by the said Morris to John Hardy the U. S. Marshal, the said Richard Busteed, well knowing that the same belonged of right either to the U. S., or to said Morris, corruptly ordered in vacation one half of the sum to be paid to some other person or persons, and procured the same to be so paid by the Marshal, in fraud of the rights of the U. S., or of the said Morris, the said Morris having executed at the time and filed in the Court a writ of error bond, with sufficient sureties in double the amount of said judgment or decree, to obtain a supersedeas of said judgment or decree.

Witnessess to the 5th Specification: John Hardy, Montgomery, Alabama; E. E. McCloskey, Knoxville, Tennessee; Samuel F. Rice, Montgomery, Alabama; Wm. P. Chilton, Montgomery, Alabama; J. Morris, Montgomery, Alabama.

Specification 6th.

That Richard Busteed, acting as Judge of the District Court of the United States for the State of Alabama, and having as such Judge a certain authority over Registers of Bankruptcy, nominated by Chief Justice Chase, did wilfully and corruptly require and demand of George E. Spencer and ——— Burke, who had been nominated as Registers in Bankruptcy in said State, by the said Chief Justice, that as a condition for being permitted to exercise the functions of the offices to which they had been so nominated, they

should severally agree to divide with him the emoluments of said offices, or pay to him a considerable sum of money, and did corruptly receive the same.

Witnesses to the 6th specification: George E. Spencer, Ala. Address not known; ——— Burke, Ala. Address not known.

Specification 7th.

That Richard Busteed, claiming as Judge of the United States District Court for the Northern District of Alabama, the power of appointment or removal of the Clerk of the said Court, did wilfully and corruptly require and receive of L. W. Day, Clerk of said Court, a sum of money or a share of the fees of the said office, as a condition of his appointment to, or retention in said office.

Witness: L. W. Day, Clerk, &c., Huntsville, Ala.

CHARGE II.

That Richard Busteed, United States Judge of the District Courts of Alabama, did, in his capacity as Judge, sell, delay, and deny justice to the citizens of the United States, in violation of his official oath and duty as Judge; and instead of using the powers of his office to establish justice, exercised them to hinder, deny, and delay justice, to the scandal and shame of all good citizens of the United States.

Specification 1st.

That the Confederate States, (so-called,) having acquired by purchase and conveyance from the owners thereof, many tracts of land in the State of Alabama for the purpose of erecting arsenals, foundries, and other works, to prosecute a war against the United States, and among these pieces of property, having acquired title by conveyance and purchase from one Philip I. Weaver of a certain tract of land in or near Selma, Alabama, and having entered into possession thereof, and occupied and used the same for the purpose of

a Naval foundry; the said property with all other property of the so-called Confederate States in the State of Alabama, by the convention between Lieutenant General Richard Taylor, and Major General E. R. S. Canby, became the property of the United States; and the United States by the —— section of the act of Congress approved the —— day of July, 1866, enacted that all such property should be taken possession of by the Commissioner of the Bureau of Refugees, Freedmen, and abandoned lands, and disposed of for purposes therein specified; and Brevet Major General Wagner Swayne, Assistant Commissioner, by virtue of said act, entered upon and took possession of the said tract of land and other lands similarly situated; and the said Richard Busteed, Judge as aforesaid, well knowning the said facts, and corruptly designing to defeat the purposes of the said act, and to divert the said property from the uses specified by said act, did conspire and agree with one James Q. Smith, then District Attorney of the United States, that he should file an information on the part of the United States, and an informer not named in the information, for the condemnation of said tract of land and other such tracts in his Court, and that the same should be condemned as forfeited to the United States, under the act of Congress for the confiscation of property used or employed in aid of the rebellion, and the property be thus frittered away in costs and parted and divided among the creatures of the said Judge; and in pursuance of said agreement the said tract of land was so proceeded against and condemned, together with others similarly situated, and on complaint being made to said Judge he falsely alleged to the Assistant Commissioner that he had no notice of the said section of the act of Congress, though it had been specially called to his attention by the counsel employed by General Swayne, and copied into the brief furnished to the Judge by him.

Witnesses: Major General Swayne, U. S. A., Wm. P. Chilton, New York.

Charge III.

Criminal ignorance of the law by Richard Busteed, Judge of the United States District Courts of the State of Alabama.

Specification 1*st.*

That charging the Grand Jury at the May Term, 1868, of said last mentioned Court, he sought to induce them to find an indictment for *libel* against some person or persons who had called the attention of the public to his official corruption.

Charge IV.

That Richard Rusteed, United States District Judge for Alabama, did corruptly decide cases brought before him as such judge, contrary to what he knew to be the law, and from personal, pecuniary, or other base motives.

Specification 1*st.*

In this, that in the case of Nickerson vs. Smith Cullum, George Holmes, and William Knox, sued as late partners composing the firm of S. Cullum & Co., Bankers, in the District Court of the United States for the Middle District of Alabama, at the Spring Term, 1866, of said Court, which was an action brought by the Plaintiffs against the Defendants to recover the amount of a bill of exchange sent by them to the Defendants for collection in the spring of 1861, and which was paid to them at maturity, in April, 1861, by the acceptor, but the proceeds were not remitted. The proof in the case was clear and not controverted that the Defendants received the bill in the usual course of their business as Bankers; that it was paid at maturity, and that the Defendants were partners at the time of its receipt and payment, and no special defence whatever was set up by said Knox, but the said Knox was at that time an intimate friend of said Busteed, who frequently sojourned at Knox's

house. Upon the foregoing evidence said Busteed, corruptly and to favor Knox, charged the jury, that if they believed the evidence, they must find *for the Plaintiffs*, as against Cullum and Holmes, and *for the Defendant Knox*, and the jury rendered a verdict accordingly.

Witnesses: J. T. Holtzclaw, Montgomery, Alabama; D. S. Troy, Montgomery, Alabama.

Specification 2d.

In this, that in the case of Martin & Graydon vs. Rose Morgan, as administratrix of James Morgan, deceased, in the said Court at the Spring Term, 1867, thereof, the Defendants pleaded "*ue unques administratrix*," that in fact she was not the administratrix of James Morgan, deceased, when the suit was brought, the action being founded upon a contract or undertaking of said James Morgan before his death, to which the Defendant, who was his widow, was not a party. The said Busteed corruptly decided that the Plaintiff was not bound to prove that the Defendant was in fact the administratrix of James Morgan, deceased, and, on proof of the debt against him, (James Morgan,) charged the jury to render a verdict for the Plaintiff, which was accordingly done.

Witnesses: D. S. Troy, Montgomery, Alabama; Wm. P. Chilton, New York.

Specification 3d.

In this, that in the case of Harper vs. Graves and others, at the Spring Term, 1867, of said Court, which was an action under the statutes of Alabama in the nature of an action of ejectment, brought to recover possession of certain lands from the Defendants, who were the temporary tenants in possession under Mrs. Amaranth L. Gayle, who claimed title to the land, the said Busteed corruptly refused to permit the landlord of said tenants to be made a party Defendant to said suit, and corruptly refused to consider or hear evidence

of her title to said land, or of her right to the possession thereof, her right being clear and undisputed under the statutes of Alabama, (by virtue of which the action was brought,) and charged the jury in said cause, that they must find a verdict for the Plaintiff, which they accordingly did (the said Busteed having arbitrarily and corruptly announced from the bench previously that he would *imprison any juror* who should presume to find a verdict contrary to his charge,) and thereupon a judgment was rendered, upon which a writ of possession issued, and an aged and helpless lady was turned out of a house and home, to which her title was unquestionable.

Witnesses: D. S. Troy, Montgomery, Alabama; T. H. Watts, Montgomery, Alabama.

Evidence.—Record of the Court in said case.

Specification 4th.

That in the case of the United States and informer vs. 192 bales of cotton, Josiah Morris and others, adverse claimants, tried at the Fall Term, 1867, of said Court, the said Busteed corruptly refused to hear evidence of the title of said Morris to said cotton, well knowing the said evidence to be legal and relevant.

Witnesses: Samuel F. Rice, Montgomery, Alabama; W. P. Chilton, New York; A. Martin, Montgomery, Alabama; D. S. Troy, Montgomery, Alabama.

Members of the Montgomery Bar, and others attending the Court.

Charge V.

That Richard Busteed, United States Judge of the District Courts for the State of Alabama, did corruptly combine and conspire with James Q. Smith, then United States District Attorney, and John Hardy, then United States Marshal, to oppress, defraud, and extort money from parties litigant

in the District Court of the United States for the Middle District of Alabama, under color of and by virtue of their respective offices as Judge, Marshal, and Attorney of said Court.

Specification 1*st.*

In this, that said James Q. Smith as District Attorney of the United States as aforesaid, immediately after entering upon the duties of said office, to wit, in the months of August, September, and October, A. D. 1865, filed a large number of libels and informations in said Court, to wit, about one thousand, against the estate, property, and effects of different individuals, alleging the property, estate, and effects of said persons to be subject to seizure and confiscation, by reason of the participation of the owners thereof in the rebellion, and that said persons, by reason of owning more than twenty thousand dollars' worth of property, were not embraced in the President's Proclamation of Amnesty of May 29, 1865; upon which information notices issued by the Clerk of said Court were served by the said Marshal on the said persons against whom the same were filed, and in some cases publication was made by the Marshal, but in no instance was the property of any such person actually seized or taken into custody by the said Marshal—many of said persons against whose property said libels or informations were so filed as aforesaid were specially pardoned by the President of the United States before the service of such notice by the Marshal, and the remainder of them were so pardoned shortly after the service of such notice upon them, and all of said cases which have been disposed of or were dismissed on payment of costs—no services were rendered in said cases except as above stated—yet the said Richard Busteed, well knowing the premises, made an order, as Judge of said Court, at the November Term, 1865, of said Court, that in each of said cases the defendant should pay costs as follows: on the value of the property, estate, and effects, if not more than

$20,000, one per cent.; if more than $20,000, one-half of one per cent. on the excess beyond $20,000 up to $30,000; and one-fourth of one per cent. on all over $30,000, in addition to the fees of the Clerk of the Court for issuing process, and Attorney's and Printer's fees, and to the Marshal for serving notice, whereby each of said parties were compelled to pay, and did pay, to said James Q. Smith, or to said Hardy, a large sum, varying from one hundred and fifty to five hundred dollars, amounting, in the aggregate, to a large sum, to wit, two hundred thousand dollars, of which sum a large part, over and above the lawful fees of said Smith and Hardy, to wit, one hundred thousand dollars, was retained by them, with the knowledge and consent of said Richard Busteed, and either appropriated to their own use or shared with said Busteed.

Witnesses: Fr. Bugbee, U. S. District Attorney, and the Dockets and Minutes of the U. S. District Court for the Middle District of Alabama, at Montgomery, since the close, of the war, and Records of the office of the Secretary of the Interior, and of the Treasury, and all the parties defendants in said causes.

Specification 2d.

In this, that said Richard Busteed, corruptly combining and conspiring as aforesaid with said John Hardy, then Marshal of the United States for the Middle District of Alabama, made an order allowing to said Hardy, in addition to the fees allowed by law, a commission of ten per centum on the proceeds of all sales of confiscated property made by him as marshal for auctioneer's fees, under and by virtue of which order and authority the said Hardy retained for auctioneer's fees in the case of the United States vs. 192 Bales of Cotton in said Court, in addition to all fees and commissions allowed by law, a large sum, to wit, $1,700 as auctioneer's fees for selling said cotton under the decree of said Court in said cause.

And in the case of H. A. Nichols vs. J. P. Steele and W. J. Stoddard in said Court, retained, in addition to the fees and commissions allowed by law, $120 as auctioneer's fees, the same being ten per centum on $1,200 collected by him by sales of land under execution issued in said cause ———, and a like commission of ten per centum in addition to the fees and commissions allowed by law in all other cases of sales of property confiscated to the United States made by him as such Marshal ———, such illegal commissions amounting in the aggregate to a large sum, to wit, many thousand dollars; all of which was done with the knowledge and approbation, and under and by virtue of the authority of said Richard Busteed, as judge as aforesaid.

Witnesses: Peter Hamilton, Mobile; D. S. Troy, Montgomery, as also returns of sales made by said Hardy in cases above stated, and in many other cases in the Middle District of Alabama.

Specification 3d.

In this, that said Richard Busteed as such Judge corruptly permitted the said James Q. Smith, as Attorney as aforesaid, to prosecute suits in said Court on behalf of the United States, and an informer without disclosing the name of such informer, and refused to require the said Smith to disclose the name of the informer in any case; and that in the case of the United States vs. Josiah Morris and J. F. Johnson in said Court, the same being a proceeding by information, on behalf of the United States and an informer, whose name was not stated in the information, against the Defendants, for a conversion of certain cotton, which had once belonged to the Confederate States, and was alleged to have become the property of the United States by virtue of the surrender of General Richard Taylor, and of the laws of the United States in such cases provided, the said Richard Busteed, having refused a jury trial to the Defendants, rendered judg-

ment against them for over thirty one thousand dollars; and when said Defendants prayed a writ of error from said judgment, and offerred a bond to supersede the same with good and sufficient securities, in double the amount of said judgment, the said Richard Busteed, as Judge as aforesaid, corruptly and with the intent wrongfully to extort said sum of money from said Defendants, refused to approve said bond, and purposely, wilfully, and corruptly avoided the approval thereof, until after the lapse of the time allowed by law to said Defendants in which to supersede said judgment, and said judgment having been collected by said John Hardy as Marshal, the money collected by him on said judgment or a large part thereof, to wit, over $31,0000, was deposited by said Hardy in the First National Bank of Selma, Alabama, and was so deposited when said Bank suspended and was dissolved, and the said funds so deposited, or any part thereof, have not yet been recovered by said Hardy nor by any officer of said Court, yet the said Richard Busteed, as Judge of said Court, proceeded to distribute said funds, and having decreed that one-half of the fund belonged to the United States, he directed the other half to be divided between E. E. McClosky, who claimed to be informer in the case, and said James Q. Smith, in different amounts, the sum paid to said James Q. Smith being more than half, to wit, over eight thousand dollars, and said Busteed, as such Judge corruptly directed and authorized the said John Hardy to pay the sums so awarded to said parties out of funds of the United States in his hands as Marshal, not collected in said cause, and the same were so paid, the said McClosky then was and still is notoriously insolvent, and said Richard Busteed, before making said distribution and ordering said payments, well knew him to be insolvent.

Witnesses: Josiah Morris, Montgomery, Alabama; Samuel F. Rice, Montgomery, Alabama; E. E. McClosky, Knoxville, Tennessee; Barna McKinne, Montgomery, Alabama.

Specification 4th.

In this, that said Richard Busteed, while presiding as Judge of the District Court of the United States for the Middle District of Alabama, at the November Term, 1865, at the Spring Term, 1866, at the Fall Term, 1866, and at the Spring Term, 1867, in cases in which the said James Q. Smith was of counsel for the plaintiff, habitually brow-beat and insulted the opposing counsel and witnesses, and decided questions contrary to what he knew to be the law, with a manifest purpose to suppress the truth and prevent the administrrtion of justice; this, in many cases, and especially in the cases of the United States and an unknown informer vs. Josiah Morris & J. F. Johnson; The United States and an unknown informer vs. A. F. Williamson; The United States and an unknown informer vs. 192 Bales of Cotton; John W. Harper vs. Graves & Gayle; John C. Martin and John W. Graydon, assignees vs. Rose Morgan, administratrix; The United States and an unknown informer vs. 2,500 pounds of unpacked Cotton, James Fountain, claimant.

Witnesses: H. C. Semple, Montgomery, Alabama; D. S. Troy, Montgomery, Alabama; S. F. Rice, Montgomery, Alabama; Thomas H. Watts, Montgomery, Alabama; A. Martin, Montgomery, Alabama; William P. Chllton, New York.

(Signed) HENRY C. SEMPLE.

Note.—The statement in the Memorial as to the character of the officers appointed by the Judge, was not intended to apply to the Clerk, Mr. Blake, who had not resided in Alabama for some twelve months; nor to his Deputy, whose administration of his office was generally satisfactory.

H. C. S.

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